

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, Allahabad Bench

Allahabad

Dated: this the 16th of October, 1996

Single Member Bench. Hon'ble Mr. S. Das Gupta A.M.

ORIGINAL APPLICATION NO. 884/95

Smt. Sushma Sharma W/O

Late Sri Madan Mohan Lal Sharma,
R/O Quarter no. T-1/5, G.B.O.

Survey of India Compound, 17 E.C.Road,
at present working as Contingent
Khalasi in No. 90 Party (N.C.)

Survey of India, Subhash Road,

C/A Sri K. C. Sinha

VERSUS

1. Union of India, through the Secretary, Government of India, Ministry of Science and Technology, Technology Bhawan, New Mehrauli Road, New Delhi.

2. Surveyor General of India,
Survey of India, Hathibarkala,
Dehradun.

3. Director, Geodetic and Research Branch,
Survey of India, Dehradun.

— = — = — = — = Respondents

C/B Km. Sadhna Srivastava

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ORDER (ORAL)

This application has been filed under section 19 of the Administrative Tribunals Act, 1985 seeking quashing of order dated 7.6.1994 by which order dated 28.6.1993 making allotment of government quarter to the applicant was cancelled. She has also sought quashing of order dated 21.7.1995 which has been issued under sub-section I section 5 of Public Premises (Eviction of un-authorised Occupation) Act 1971, directing the applicant to vacate the quarter within fifteen days from the date of publication of the order. She has also prayed for a direction to the respondents not to disturb the occupation of quarter no. T-1/5 by the applicant and to allow her to live in the same quarter peacefully.

2. The facts in brief giving rise to this application are that the applicant's husband died in harness while working in the respondents' department on 8.9.1992. At the time of expiry of her husband, the applicant was residing with him in quarter no. T-1/5, G.B.O. Compound (Survey of India Estate, Dehradun) which was allotted to her husband. After the expiry of her husband, the applicant continued to occupy the said accommodation for which permission was granted from time to time. Applicant was subsequently employed as Contingency padi khalasi on compassionate ground on 26.2.1993 dated 17.2.1993. by an appointment letter/ On her appointment as such she applied for allotment of quarter no.T-1/5 in

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her name and subsequently an order dated 28.6.1993 was issued (annexure A-2) by by which the quarter in question was allotted to her. However, by the impugned order dated 7.6.1994, the allotment order was cancelled and she was declared un-authorised occupant of the said quarter. Thereafter, proceeding was initiated under the Public premises (Eviction of un-authorised Occupants) Act 1971 and the impugned order dated 21.7.1995 was passed by the Estate Officer.

4. ⁱⁿ That applicant's case is that/the relevant rule namely " Allotment of government residence in the Survey of India ~~State~~ rules 1987 " there is a specific provision for out-of-turn allotment to the sons or daughter or the widow of the government servant, who dies in harness, while in occupation of government residence. She claims that under this rule, she was entitled to out of turn allotment and the quarter no. T-1/5 was rightly allotted to her. Therefore, the impugned order dated 7.6.1994 by which the allotment was cancelled without giving her opportunity of hearing is violative of principles of natural justice.

5. The respondents contested the case by filing C.A. in which it has been stated that the quarter in question was allotted wrongly as she was not entitled to such allotment not being a regular government employee. They have annexed photocopy of the rules governing selection of contingency staff as annexure A-1 in support of their contention.

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6. The applicant has filed R. A. in which she has re-affirmed the contentions of the O. A. and has denied contrary averments in the C.A. She has reiterated that she was entitled for allotment of government accomodation even though she is a contingency paid staff.

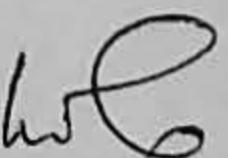
7. I have heard the learned counsel for both the parties and perused the records carefully.

8. The only question, which falls for my consideration, is whether the applicant, who admittedly is a contingency paid staff, is entitled to allotment of government accomodation. The contention of the respondents is that the applicant is not so entitled as she ^{is} not a regular government servant. I perused the relevant provision of the rule for allotment of government accomodation in the Survey of India Estate rules 1987. In the preamble to this rule, it has been specifically stated that this rule shall apply to the allotment of residence which are primarily intended for the use of govt. servant employed in the Survey of India (emphasis supplied). Rules do not give any definition of the phrase ' government servant.'. Rules also do not indicate any where that it is only regular government servants are entitled to government accomodation and contingency paid staff are not so entitled. There is no dispute that the applicant is a govt.servant since she has been employed by the Survey of India, which is a govt.department even though payment to her is made from contingency. The applicant admittedly was appointed on compassionate ground. Normally a person who is appointed on compassionate ground

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shall be given a regular class III or IV appointment suitable to the applicant's qualification and fitness. In the present case, the applicant was given an appointment of contingency paid staff. As a result, she is being deprived of certain benefits, which are normally available to a regular employee. Benefits which are denied are specifically spelt out in annexure A-1 to the C.A. This, however, does not include the denial of benefit of government accommodation. On the other hand the allotment rules do not make any distinction between regular employee and the contingency paid staff. I am, therefore, unable to accept the contention of the respondents that as the rules stand today, the applicant is not entitled to government accommodation.

9. In view of the foregoing, the application is allowed. The impugned order dated 7.6.1994 and 21.7.1995 are quashed. The allotment of the quarter to the applicant made through order dated 28.6.1993 is restored. The applicant shall be allowed to continue occupation of the said quarter until her allotment is cancelled in accordance with the rules. Parties shall bear their own costs.



Member (A)

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